

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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STEVEN E. GREER,

Plaintiff,

-v-

No. 20 CV 5484-LTS-SDA

TUCKER CARLSON, et al.,

Defendants.

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ORDER ADOPTING REPORT & RECOMMENDATION

The Court has reviewed Magistrate Judge Aaron's December 24, 2020, Report and Recommendation (the "Report") (docket entry no. 121) which recommends that moving defendants' motion to dismiss be granted, but that Plaintiff be granted leave to amend his complaint. No objections to the Report have been received.

In reviewing a report and recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C.A. § 636(b)(1)(C) (Westlaw through P.L. 116-259). "In a case such as this one, where no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Johnson v. New York University School of Education, No. 00 Civ. 8117, at \*1, 2003 WL 21433443 (S.D.N.Y. June 16, 2003) (internal quotation marks omitted).

The Court has reviewed carefully Magistrate Judge Aaron's thorough and well-reasoned Report and Recommendation and finds no clear error. The Court adopts Judge Aaron's conclusions that the motion to dismiss should be granted because 1) the Court does not have subject matter jurisdiction over this action due to a lack of diversity of citizenship between the

parties; and 2) Defendants Carlson and Strasberg cannot be severed because they are not indispensable to the action. The Court also adopts Judge Aaron's conclusion that Plaintiff should be granted leave to amend because Plaintiff is a pro se litigant. The Court therefore adopts the Report in its entirety for the reasons stated therein.

Accordingly, the motion to dismiss is granted, but Plaintiff is granted leave to file a Second Amended Complaint. Any such amended complaint must be filed by **March 1, 2021**. The amended complaint will replace the prior complaints, and therefore must include all allegations upon which Plaintiff intends to rely and name all parties against whom Plaintiff wishes to maintain suit. Failure to file a timely Second Amended Complaint will result in entry of judgment dismissing the action for lack of subject matter jurisdiction without further advance notice.

This Order resolves docket entry no. 46. This case remains referred to Magistrate Judge Aaron for General Pretrial Management.

SO ORDERED.

Dated: New York, New York  
January 28, 2021

/s/ Laura Taylor Swain  
LAURA TAYLOR SWAIN  
United States District Judge